

Remarks

Applicant requests reconsideration of the above-referenced patent application.

Claim Amendments

At the outset, the Office action indicates that claims 1-26 are pending. Applicants' July 30, 2002 Preliminary Amendment B, however, canceled claims 1, 3, 8-11, and 16-18. Thus, only claims 2, 4-7, 12-15, and 19-31 are pending.

This amendment amends claims 2, 4, 6, 12, 13, 19, 24, 26, and 30. All the pending claims, including the amendments, are shown in the previous section. Applicants submit that the amendments do not introduce any new matter. Specifically:

Claims 4, 6, 12, and 13 have been amended to depend from claim 2 rather than claim 1. This amendment is supported by the dependencies in the claims as originally filed, and corrects an obvious error, given that claim 1 is canceled.

Other amendments rephrase the claims, remove redundancies or unnecessary terms, or correct grammatical or obvious errors. Applicants submit that such amendments are permissible under MPEP §2163.07.

Applicants reserve the right to pursue any canceled subject matter and/or any other subject matter disclosed in this application in one or more later-filed divisional and/or continuation applications.

Request for initialed Form 1449's from Applicants' information disclosure statements

Applicants filed information disclosure statements on May 16, 2002 and October 13, 2002. Applicants, however, do not believe that the Patent Office has provided Applicants with the Form 1449's initialed by the Examiner. Applicants request that the Examiner initial the Form 1449's in accordance with MPEP §609, and provide the initialed copies to the Undersigned with the next Office communication.

Response to the provisional obviousness-type double patenting rejection of claims 1-26

Claims 1-26 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-58 of U.S. Patent

Amendment C
Appl. No. 10/031,898
March 14, 2005

Application No. 09/874,504, and claims 1-58 of U.S. Patent Application No. 10/113,157. Applicant requests withdrawal of this rejection. As noted above, claims 1, 3, 8-11, and 16-18 have been canceled, thereby mooting this rejection as to those claims. As to the remaining claims, neither U.S. Patent Application No. 09/874,504 nor U.S. Patent Application No. 10/113,157 has issued as a patent. As noted in MPEP §804(I):

[i]f the "provisional" double patenting rejection in one application is the only rejection remaining in that application, the examiner should then withdraw that rejection and permit the application to issue as a patent

In the instant application, the provisional double patenting rejection is the only rejection remaining. Accordingly, it should be withdrawn.

Because the provisional rejection must be withdrawn based on the above reason alone, Applicant makes no further representation as to the merits of the provisional rejection. In particular, Applicant makes no representation as to the merits of the statements in the Office action regarding whether the claims in this application are patentably distinct from the claims in U.S. Patent Application No. 09/874,504 or U.S. Patent Application No. 10/113,157.

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Applicants believe that no fee is due in connection with this filing. If, however, Applicants do owe any such fee(s), the Commissioner is hereby authorized to charge the fee(s) to Deposit Account No. **08-0750**. In addition, if there is ever any other fee deficiency or overpayment under 37 C.F.R. §1.16 or §1.17 in connection with this patent application, the Commissioner is hereby authorized to charge such deficiency or overpayment to Deposit Account No. **08-0750**.

Applicant submits that the application is in condition for allowance, and requests that it be allowed. Applicant requests that the Examiner call the Undersigned if any issues arise that can be addressed over the phone to expedite examination of this application.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. M. Gryte".

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CERTIFICATE OF MAILING UNDER 37 CFR § 1.8

I certify that this correspondence is being deposited with the U.S. Postal Service on **March 14, 2005** with sufficient postage as first class mail (including Express Mail per MPEP §512), and addressed to **Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450**.

A handwritten signature in black ink, appearing to read "D. M. Gryte".

David M. Gryte

DMG/CCW/PML